AFR

(113)

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

W. P. (S) No. 6116 of 2006

Petitioner : Dr. Naval Singh Chandel

Versus

Respondents : State of Chhattisgarh & others

Post for order on 15th March, 2007.

Sd/-
Satish K. Agnihotri
Judge

(114)

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition(s) No. 6116 of 2006

Petitioner		Dr. Naval Singh Chandel, S/o Shri F. N. Chandel, Aged about 51 years, Presently posted as District Tuberculosis Officer, District Tuberculosis Control, Bilaspur, CIMS, Bilaspur (Chhattisgarh).
	Versus	
Respondents	1.	State of Chhattisgarh, Through the Secretary, Department of Health and Family Welfare, D.K.S. Building, Mantralaya, Raipur, Chhattisgarh.
	2.	Director, health Services, Raipur (CG).
	3.	Collector, Bilaspur (CG).
	4.	Chief Medical and health officer, Bilaspur (CG).
	5.	Dr. Nagina Tandon, Women Assistant Surgeon, District Tuberculosis Control, Bilaspur (CIMS), Bilaspur (CG).

SB: Hon'ble Mr. Justice **Satish K. Agnihotri, J**

Shri B. D. Guru, Advocate for the petitioner.

Shri V. V. S. Moorthy, Deputy Advocate General with Miss Deepali Pandey, Panel Lawyer for the State/respondents No. 1 to 4.

Shri P. S. Koshy, Advocate for the respondent No.5.

ORDER

(Passed on this 15th day of March, 2007)

1. By this petition the petitioner challenges the validity of the impugned order dated 19.10.2006 (Annexure P/1), passed by the respondent No.3 Collector, Bilaspur, wherein the respondent No.5 Medical Officer was appointed as District Tuberculosis Officer (for short 'D.T.O.') in place of the petitioner.

2. The facts, in nutshell, are that the petitioner was granted a senior grade pay scale of Class-I (Gazetted) Medical Officer Rs.10000-325-15200/- w.e.f. 1.1.2001 vide order dated 6.7.2006 (Annexure P/8), passed by the Govt. of Chhattisgarh Health and Family Welfare Department. The petitioner further obtained modular training in Revised National Tuberculosis Control Programme (for short 'RNTCP'). On the basis of

(115)

that by order dated 2nd April, 2006 (Annexure P/3) the petitioner was assigned the responsibility of the District Tuberculosis Officer, Bilaspur. Thereafter, vide order dated 19.10.2006 (Annexure P/1), without assigning any reason, the respondent No.5, who according to the petitioner, was not granted pay scale of class-I (Gazetted) Medical Officer, was appointed as D.T.O.

3. The petitioner has challenged the appointment of the respondent No.5 on the ground that the petitioner was having a qualification as required for being appointed as D.T.O. and the respondent No.5 was not having the required qualification as she was getting the pay scale of class-II Medical Officer.

4. Learned counsel appearing for the petitioner would submit that as per the setup of the officers, issued by the Directorate, Health Services vide letter dated 22.8.2005 (Annexure P/5) the pay scale of D.T.O. is Rs. 10,000 – 15200/- , which the petitioner was getting and the respondent No.5 was getting a pay scale of Rs. 8000-13500/-. Secondly, as per the National Tuberculosis Programme, the D.T.O. should be on the rank of the Chief District Health Officer or an equivalent functionary who is trained in RNTCP at the central level institution. The petitioner is having the pay scale of the Chief District Health Officer and was trained in RNTCP. The respondent No.5 is not holding the rank of equivalent functionary of the Chief District Health Officer as her pay scale is less then the petitioner. It was further contended that the impugned order was passed by the Collector, who is not competent to appoint DTO and supersede the earlier order passed by the State Government in favour of the petitioner, assigning him responsibility of the D.T.O.

5. Per contra, Shri V. V. S. Murthy, learned Deputy Advocate General with Miss Deepali Pandey, Panel Lawyer, appearing for the respondents No. 1 to 4, would submit that the respondent No.5 has specialized in the field of tuberculosis. It is admitted that the pay scale of the respondent

(116)

No.5 was less than the petitioner, who has been granted pay scale of the Chief District Health Officer i.e. Rs. 10000-15200. Learned counsel would further contend that the respondent No.5 had also obtained modular training in RNTCP. It was further contended that this is the responsibility of the officer to appoint a D.T.O. keeping in view over all performance of the officer.

6. I have heard learned counsel for the parties and perused the documents appended thereto. It is clear from the documents that the basic qualification required for D.T.O. is an officer to the rank of the Chief District Health Officer or equivalent functionary and trained in RNTCP. The petitioner is, admittedly, having the pay scale of Chief District Health Officer and this is also the requirement for appointment as D.T.O. The submission of learned counsel for the respondents No. 1 to 4 is that the respondent No.5 was better qualified, has no basis. When admittedly, the petitioner has better qualification, suitable for the post of D.T.O. it is desirable that the senior officer like the petitioner be assigned the responsibility of D.T.O., as per the scheme.

7. The impugned order was also not passed by a competent officer as the order dated 2.4.2006, appointing the petitioner on assignment of the D.T.O. was passed by the State Government and the same cannot be superceded by the Collector. The impugned order dated 19.10.2006, on this count is also bad.

8. As a result and for the discussions made hereinabove, the order dated 19.10.2006 (Annexure P/1), assigning the responsibility of D.T.O. to the respondent No.5, without assigning any reasons for replacing the petitioner, is bad and is accordingly quashed.

9. Thus this petition is allowed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Thakur